

1 consultants which are similar to subch. III of ch. 19, except that the authority may
2 not require its paid consultants to file financial disclosure statements.

3 **SECTION 126.** 560.04 (2m) of the statutes is amended to read:

4 560.04 (2m) DUTIES. The department may assign one or more full-time
5 equivalent positions to the functions of coordinating the development and scheduling
6 of training programs for local government officials by the University of
7 Wisconsin–Extension, technical college system, department of revenue, ~~elections~~
8 government accountability board, and other state agencies in order to assure the
9 effective delivery of training programs and to prevent duplication of effort and of
10 coordinating requests for management or personnel consultative services from
11 government units other than the state and directing those requests to the
12 appropriate division of the department of administration.

13 ~~**SECTION 127.** 778.135 of the statutes is amended to read:~~

14 **778.135 Campaign finance forfeitures; how recovered.** Notwithstanding
15 s. 778.13, whenever any action or proposed action by the ~~elections~~ government
16 accountability board under s. 5.05 (1) (c) is settled as a result of agreement between
17 the parties without approval of the court, the moneys accruing to the state on account
18 of such settlement shall be paid to the board and deposited with the state treasurer.
19 Whenever any proposed action by a county board of election commissioners under s.
20 7.21 (2m) (a) is settled as a result of agreement between the parties, the moneys
21 accruing to the county on account of such settlement shall be paid to the board of
22 election commissioners and deposited with the county treasurer in the same manner
23 as provided for forfeitures under s. 778.13.

24 ~~**SECTION 128.** 778.136 of the statutes is amended to read:~~

1 **778.136 Ethics and lobbying forfeitures; how recovered.**

2 Notwithstanding s. 778.13, whenever any moneys are received by the ~~ethics~~
3 government accountability board or attorney general in settlement of a civil action
4 or other civil matter for violation of the lobbying law or code of ethics for state public
5 officials and employees under s. 19.545, the moneys shall accrue to the state and be
6 deposited with the state treasurer.

7 **SECTION 129. Nonstatutory provisions.**

8 (1) TRANSFER OF ELECTIONS BOARD.

9 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
10 liabilities of the elections board shall become the assets and liabilities of the
11 government accountability board.

12 (b) *Positions and employees.*

13 1. On the effective date of this subdivision, all full-time equivalent positions
14 in the elections board are transferred to the government accountability board.

15 2. All incumbent employees holding positions in the elections board are
16 transferred on the effective date of this subdivision to the government accountability
17 board.

18 3. Employees transferred under subdivision 2. have all the rights and the same
19 status under subchapter V of chapter 111 and chapter 230 of the statutes in the
20 government accountability board that they enjoyed in the elections board
21 immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes,
22 no employee so transferred who has attained permanent status in class is required
23 to serve a probationary period.

1 (c) *Tangible personal property.* On the effective date of this paragraph, all
2 tangible personal property, including records, of the elections board is transferred to
3 the government accountability board.

4 (d) *Contracts.* All contracts entered into by the elections board in effect on the
5 effective date of this paragraph remain in effect and are transferred to the
6 government accountability board. The government accountability board shall carry
7 out any contractual obligations under such a contract until the contract is modified
8 or rescinded by the government accountability board to the extent allowed under the
9 contract.

10 (e) *Rules and orders.* All rules promulgated by the elections board that are in
11 effect on the effective date of this paragraph remain in effect until their specified
12 expiration dates or until amended or repealed by the government accountability
13 board. All orders issued by the elections board that are in effect on the effective date
14 of this paragraph remain in effect until their specified expiration dates or until
15 modified or rescinded by the government accountability board.

16 (f) *Pending matters.* Any matter pending with the elections board on the
17 effective date of this paragraph is transferred to the government accountability
18 board, and all materials submitted to or actions taken by the elections board with
19 respect to the pending matter are considered as having been submitted to or taken
20 by the government accountability board.

21 (2) TRANSFER OF ETHICS BOARD.

22 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
23 liabilities of the ethics board shall become the assets and liabilities of the government
24 accountability board.

25 (b) *Positions and employees.*

1 1. On the effective date of this subdivision, all full-time equivalent positions
2 in the ethics board are transferred to the government accountability board.

3 2. All incumbent employees holding positions in the ethics board are
4 transferred on the effective date of this subdivision to the government accountability
5 board.

6 3. Employees transferred under subdivision 2. have all the rights and the same
7 status under subchapter V of chapter 111 and chapter 230 of the statutes in the
8 government accountability board that they enjoyed in the ethics board immediately
9 before the transfer. Notwithstanding section 230.28 (4) of the statutes, no employee
10 so transferred who has attained permanent status in class is required to serve a
11 probationary period.

12 (c) *Tangible personal property.* On the effective date of this paragraph, all
13 tangible personal property, including records, of the ethics board is transferred to the
14 government accountability board.

15 (d) *Contracts.* All contracts entered into by the ethics board remain in effect
16 and are transferred to the government accountability board. The government
17 accountability board shall carry out any contractual obligations under such a
18 contract until the contract is modified or rescinded by the government accountability
19 board to the extent allowed under the contract.

20 (e) *Rules and orders.* All rules promulgated by the ethics board that are in effect
21 on the effective date of this paragraph remain in effect until their specified expiration
22 dates or until amended or repealed by the government accountability board. All
23 orders issued by the ethics board that are in effect on the effective date of this
24 paragraph remain in effect until their specified expiration dates or until modified or
25 rescinded by the government accountability board.

1 (f) *Pending matters.* Any matter pending with the ethics board on the effective
2 date of this paragraph is transferred to the government accountability board, and all
3 materials submitted to or actions taken by the ethics board with respect to the
4 pending matter are considered as having been submitted to or taken by the
5 government accountability board.

6 (3) BOARD TRANSITIONS; INITIAL TERMS.

7 (a) Notwithstanding section 15.61, 2001 stats., section 15.62, ~~2001~~ ²⁰⁰³ stats., and
8 section 15.07 (1) (c) of the statutes, the terms of office of all members of the elections
9 board and all members of the ethics board holding office shall expire on May 1, ~~2004~~ ²⁰⁰⁶.

10 (b) Each member of the government accountability board who is appointed as
11 provided in paragraph (c) and qualified to take office shall take office on November
12 1, ~~2003~~ ²⁰⁰⁵, or upon qualification to take office, whichever is later.

13 (c) Notwithstanding section 15.60 (1) of the statutes, as created by this act, and
14 section 15.07 (1) (c) of the statutes:

15 1. Of the members of the government accountability board who are initially
16 nominated by the governor, and with the advice and consent of the senate appointed,
17 2 shall be appointed to serve for terms expiring on May 1, ~~2005~~ ²⁰⁰⁷, and 2 shall be
18 appointed to serve for terms expiring on May 1, ~~2007~~ ²⁰⁰⁹.

19 2. All members of the government accountability board who are initially
20 appointed to represent political parties shall serve for terms expiring on May 1, ~~2007~~ ²⁰⁰⁹.

21 (d) Notwithstanding section 15.603 (1) of the statutes, as created by this act,
22 the person who is initially appointed to serve as administrator of the enforcement
23 division of the government accountability board shall serve for a term expiring on
24 September 1, ~~2009~~ ²⁰¹¹.

25 (4) IMPLEMENTATION.

1 (a) Notwithstanding section 5.05 (1m) and (2m) of the statutes, as created by
2 this act, and section 20.922 (1) of the statutes the director of the legislative council
3 staff shall serve as executive director of the government accountability board,
4 without additional compensation for such service, until such time as the board
5 initially appoints an executive director and the appointee qualifies to take office. The
6 executive director of the legislative council staff is vested with full authority and
7 responsibility to carry out all functions of the executive director of the government
8 accountability board, the enforcement division in the government accountability
9 board, and the administrator of the enforcement division prior to appointment and
10 qualification of the initial executive director, including the retention and
11 termination of all staff not transferred to the board that the board is authorized to
12 employ under this act.

13 (b) Prior to May 1, ~~2004~~²⁰⁰⁶, the government accountability board may expend
14 moneys from the appropriation under section 20.511 (1) (a) of the statutes for the
15 purpose of meeting, employing staff, and preparing to assume its full authority and
16 responsibilities on May 1, ~~2004~~²⁰⁰⁶.

17 (5) POSITION AUTHORIZATIONS.

18 (a) There is authorized for the government accountability board 1.0 FTE GPR
19 executive director position, to be funded from the appropriation under section 20.511
20 (1) (a) of the statutes, as created by this act.

21 (b) There is authorized for the government accountability board 1.0 FTE GPR
22 division administrator position, 1.0 FTE GPR attorney position, and 1.0 FTE GPR
23 investigator position, to be funded from the appropriation under section 20.511 (2)

24 (a) of the statutes, as created by this act.

25 **SECTION 130. Appropriation changes.**

INS
52-24

1 (1) The unencumbered balance in the appropriation account under section
2 20.510 (1) (h) of the statutes is transferred to the appropriation account under section
3 20.511 (1) (h) of the statutes, as created by this act.

4 (2) The unencumbered balance in the appropriation account under section
5 20.510 (1) (i) of the statutes is transferred to the appropriation account under section
6 20.511 (1) (i) of the statutes, as created by this act.

7 (3) The unencumbered balance in the appropriation account under section
8 20.521 (1) (g) of the statutes is transferred to the appropriation account under section
9 20.511 (1) (i) of the statutes, as created by this act.

10 (4) The unencumbered balance in the appropriation account under section
11 20.521 (1) (i) of the statutes is transferred to the appropriation account under section
12 20.511 (1) (h) of the statutes, as created by this act.

13 **SECTION 131. Effective dates.** This act takes effect on May 1, 2004, except as
14 follows:

15 (1) The treatment of sections 5.052, 5.054, 15.07 (1) (a) 2m. and (5) (m), 15.60,
16 15.603, 20.511 (intro.), (1) (title), (a), and (2), 20.923 (4) (intro.), (e) 2e., and (f) 3j.,
17 230.08 (2) (e) 4h. and (on) and (4) (a) of the statutes, the renumbering and
18 amendment of section 15.03 of the statutes, the creation of section 15.03 (2) of the
19 statutes, and SECTION 129 (3) (b) to (d), (4), and (5) of this act takes effect on November
20 1, 2003.

21 (2) The repeal of section 20.511 (1) (c) of the statutes takes effect on July 1, 2008.

22

(END)

D-note



LPS
INSERTS
OUT OF ORDER

**SENATE AMENDMENT 1,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 11**

May 20, 2003 – Offered by COMMITTEE ON EDUCATION, ETHICS AND ELECTIONS.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 8, line 18: after that line insert:

3 **SECTION 9m.** 5.05 (6) of the statutes is amended to read:

4 5.05 (6) FORMAL OPINIONS. Any interested person may make written request to
5 the ~~board~~ executive director of the board to issue a formal opinion with respect to the
6 person's authority or responsibilities under chs. 5 to 12. The ~~board~~ executive director
7 shall within 15 days advise the person requesting an opinion whether or not a formal
8 opinion will be issued. If a formal opinion will be issued, it shall be issued within 30
9 days of the request. The executive director may consult with the board before issuing
10 a formal opinion. No person acting in good faith upon a formal opinion issued to the
11 person by the ~~board~~ executive director shall be subject to civil or criminal prosecution
12 for so acting, if the material facts are as stated in the opinion request. Nothing in

JWS
8-18



INSERT 8-19

SECTION #. Am;

5.05(11)

NO
B

CS

20.511

5.05(11) Aids to counties and municipalities. From the appropriations under s. ~~20.510~~ (1) (t) and (x), the board may provide financial assistance to eligible counties and municipalities for election administration costs in accordance with the plan adopted under sub. (10). As a condition precedent to receipt of assistance under this subsection, the board shall enter into an agreement with the county or municipality receiving the assistance specifying the intended use of the assistance and shall ensure compliance with the terms of the agreement. Each agreement shall provide that if the federal government objects to the use of any assistance moneys provided to the county or municipality under the agreement, the county or municipality shall repay the amount of the assistance provided to the board.

(end Insert 8-19)

Ans 14-8.1

Section #. 6.26 (2) (b) of the statutes is amended to read:

6.26 (2) (b) The municipal clerk, board of election commissioners, or ~~elections~~ ^{government accountability} board may appoint any applicant who qualifies under this subsection, unless the applicant's appointment has been revoked by a municipality or by the board for cause. The municipal clerk, board of election commissioners, or ~~elections~~ ^{government accountability} board may revoke an appointment made by the clerk, board of election commissioners, or ~~elections~~ ^{government accountability} board for cause at any time.

History: 1985 a. 304 ss. 50, 52g; 1987 a. 391; 1989 a. 192; 2003 a. 265.



INS 14-8.2)

Section #. 6.26 (2) (c) of the statutes is amended to read:

6.26 (2) (c) No individual may serve as a special registration deputy in a municipality unless the individual is appointed by the municipal clerk or board of election commissioners of the municipality or the individual is appointed by the ~~elections board~~ ^{government accountability} to serve all municipalities.

~~History: 1985 a. 304 ss. 50, 52g; 1987 a. 391; 1989 a. 192; 2003 a. 265.~~

(end Ins 14-8)

7w514-18

~~Section #. 7.31 (5) of the statutes is amended to read:~~

7.31 (5) The board shall conduct regular training programs to ensure that individuals who are certified by the board under this section are knowledgeable concerning their authority and responsibilities. The board shall pay all costs required to conduct the training programs from the appropriation under s. ~~20.510 (1) (bm)~~.

~~History: 2001 a. 16, 104; 2003 a. 143.~~

20.511 (1) (bm)

↑
letter

(end ins 14-18)

INS 27-24

15.607

X of the statutes is renumbered 15.607, and 15.607
Section #. 15.617 (1) of the statutes is amended to read:

as renumbered,

15.607

15.617

(1) ELECTION ADMINISTRATION COUNCIL. There is created in the elections board an election administration council consisting of members appointed by the executive director of the elections board, including the clerk or executive director of the board of election commissioners of the 2 counties or municipalities in this state having the largest population, one or more election officials of other counties or municipalities, representatives of organizations that advocate for the interests of individuals with disabilities and organizations that advocate for the interests of the voting public, and other electors of this state.

~~History: 2003 a. 265.~~

(end insert)

19.46 (2) Any individual, either personally or on behalf of an organization or governmental body, may request of the ~~board~~ executive director of the board an advisory opinion regarding the propriety under this subchapter or subch. III of ch. 13 of any matter to which the person is or may become a party; and any appointing officer, with the consent of a prospective appointee, may request of the ~~board~~ executive director an advisory opinion regarding the propriety under this subchapter or subch. III of ch. 13 of any matter to which the prospective appointee is or may become a party. The ~~board~~ executive director shall review a request for an advisory opinion and may advise the person making the request. Advisory opinions and requests therefor shall be in writing. ~~The board's deliberations and actions upon~~ The executive director may consult with the board before issuing a formal opinion but shall not reveal any information to the board that would identify the requester of the opinion. All consultations with the board concerning such requests shall be in meetings not open to the public. It is prima facie evidence of intent to comply with this subchapter or subch. III of ch. 13 when a person refers a matter to the ~~board~~

7
ws
31-6
1 executive director and abides by the board's executive director's advisory opinion, if
2 the material facts are as stated in the opinion request. ~~The board may authorize the~~
3 ~~executive director to act in its stead in instances where delay is of substantial~~
4 ~~inconvenience or detriment to the requesting party.~~ No member or employee of the
5 board may make public the identity of the individual requesting an advisory opinion
6 or of individuals or organizations mentioned in the opinion.

7 **4.** Page 32, line 6: after "issued" insert "by the executive director".

8 **5.** Page 33, line 16: after "The" insert "executive director of the".

9 **6.** Page 35, line 11: after "ethics" insert "executive director of the".

10 (END)

Prs 38-11

Section #. 20.923 (4) (intro.) of the statutes is amended to read:

20.923 (4) STATE AGENCY POSITIONS. (intro.) State agency heads, the administrator of the division ~~of merit recruitment and selection in the office of state employment relations~~ ^{the administrator of the enforcement division in the government} and commission chair-^{accountability} persons and members shall be identified and limited in number in accordance with the standardized ^{board,} nomenclature contained in this subsection, and shall be assigned to the executive salary groups listed in pars. (a) to (i). Except for positions specified in ~~par. (c) 3m.~~ ^{pars. and (e) 2e.} and sub. (12), all unclassified division administrator positions enumerated under s. 230.08 (2) (e) shall be assigned, when approved by the joint committee on employment relations, by the director of the office of state employment relations to one of 10 executive salary groups. The joint committee on employment relations, by majority vote of the full committee, may amend recommendations for initial position assignments and changes in assignments to the executive salary groups submitted by the director of the office of state employment relations. All division administrator assignments and amendments to assignments of administrator positions approved by the committee shall become part of the compensation plan. Whenever a new unclassified division administrator position is created, the appointing authority may set the salary for the position until the joint committee on employment relations approves assignment of the position to an executive salary group. If the committee approves assignment of the position to an executive salary group having a salary range minimum or maximum inconsistent with the salary paid to the incumbent at the time of such approval, the incumbent's salary shall be adjusted by the appointing authority to conform with the committee's action, effective on the date of that action. Positions are assigned as follows:

(end insert)

History: 1971 c. 18, 125, 164; 1971 c. 270 ss. 98, 104; 1971 c. 307, 321; 1973 c. 90, 156, 243, 333; 1975 c. 28; 1975 c. 39 ss. 236c to 247, 735 (5); 1975 Ex. Order No. 24; 1975 c. 189, 199, 224, 422; 1977 c. 29 ss. 399g to 406d, 1649, 1650m, 1654 (8) (e), 1656 (43); 1977 c. 44; 1977 c. 187 ss. 29, 30, 31, 135; 1977 c. 196 ss. 74 to 76m, 131; 1977 c. 203, 272, 277, 418, 447, 449; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1979 c. 32 s. 92 (1); 1979 c. 34, 89, 189; 1979 c. 221 ss. 201m to 218, 2202 (13); 1979 c. 361; 1981 c. 20 ss. 587 to 592g, 2202 (33) (b), (c), (56) (a); 1981 c. 96 ss. 16, 67; 1981 c. 121, 127, 347, 353; 1981 c. 390 s. 252; 1983 a. 27, 46, 121, 192, 371, 378; 1985 a. 18, 23; 1985 a. 29

INSERT
41-18

government
accountability

71.10(3)(b)

(b) The secretary of revenue shall provide a place for those designations on the face of the individual income tax return and shall provide next to that place a statement that a designation will not increase tax liability. Annually on August 15, the secretary of revenue shall certify to the ~~elections~~ board, the department of administration and the state treasurer under s. 11.50 the total amount of designations made during the preceding fiscal year. If any individual attempts to place any condition or restriction upon a designation, that individual is deemed not to have made a designation on his or her tax return.

(end ins

(Ins 42.15:1)

Section #. 71.10 (3) (b) of the statutes is amended to read:

repealed and recreated

71.10 (3) (b) The secretary of revenue shall provide a place for those designations on the face of the individual income tax return and shall provide next to that place a statement that a designation will not increase tax liability. Annually on August 15, the secretary of revenue shall certify to the elections board, the department of administration and the state treasurer under s. 11.50 the total amount of designations made during the preceding fiscal year. If any individual attempts to place any condition or restriction upon a designation, that individual is deemed not to have made a designation on his or her tax return.

NOTE Par. (b) was amended eff. 7-30-02 by 2001 Wis. Act 109 as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in *Wisconsin Realtors Assoc. v. Ponto*, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void.

(b) The secretary of revenue shall ensure that space for the designations under par. (am) is provided on the face of the individual income tax return in a manner that is convenient to the individual filing the return. The secretary of revenue shall provide next to the place on the return where designation under par. (am) is made a statement that a designation will increase tax liability, that the amount of a designation may be claimed as a credit under s. 71.07 (6s), and that by making a designation the individual is also claiming the credit. The department of revenue shall ensure that an individual may make the designation under par. (am) and claim the credit under s. 71.07 (6s) by marking only one box, which shall be on the face of the individual income tax return. The secretary of revenue shall also provide and highlight a place in the instructions that accompany the return for information submitted to the secretary by the elections board under s. 11.50 (2m) without cost to the board. Annually on August 15, the secretary of revenue shall certify to the elections board, the department of administration, and the state treasurer the total amount of designations made on returns processed by the department of revenue during the preceding fiscal year and the amount of designations made during that fiscal year for the general account and for the account of each eligible political party. If any individual designates an amount greater than the amount authorized under par. (am) or attempts to place any condition or restriction upon a

In 542:15-2

designation not authorized under par. (am), that individual is deemed not to have made a designation on his or her tax return.

1987 a. 312; 1987 a. 411 ss. 94, 97, 176 to 179; 1987 a. 422 s. 4; 1989 a. 31, 56, 359; 1991 a. 39; 1993 a. 16, 184; 1995 a. 27, 209, 418, 453; 1997 a. 27, 63, 237, 248; 1999 a. 9, 167; 2001 a. 16, 109; 2003 a. 33, 99, 135, 176, 255, 321. 1987 a. 312; 1987 a. 411 ss. 94, 97, 176 to 179; 1987 a. 422 s. 4; 1989 a. 31, 56, 359; 1991 a. 39; 1993 a. 16, 184; 1995 a. 27, 209, 418, 453; 1997 a. 27, 63, 237, 248; 1999 a. 9, 167; 2001 a. 16, 109; 2003 a. 33, 99, 135, 176, 255, 321.

(end ins)

ins 43-2

Section #. 85.61⁽¹⁾ of the statutes is amended to read:

Plain
text

85.61 Compliance with federal Help America Vote Act. (1) The secretary of transportation and the executive director of the elections board shall enter into an agreement to match personally identifiable information on the official registration list maintained by the elections board under s. 6.36 (1) with personally identifiable information in the operating record file database under ch. 343 and vehicle registration records under ch. 341 to the extent required to enable the secretary of transportation and the executive director of the elections board to verify the accuracy of the information provided for the purpose of voter registration.

(2) The secretary of transportation shall enter into an agreement with the commissioner of the federal social security administration for the purpose of verifying whether the name, date of birth, and social security number of an individual in the operating record file database under ch. 343 or vehicle registration records under ch. 341 match the information contained in the records of the social security administration. The agreement shall include safeguards to ensure the maintenance of the confidentiality of any personally identifiable information disclosed and procedures to permit the secretary of transportation to use any applicable personally identifiable information disclosed for purposes related to maintenance of departmental records.

History: 2003 a. 265.

(end ins 43-2)

47-12.1

Section #. 778.135 of the statutes is amended to read:

778.135 Campaign finance forfeitures; how recovered. Notwithstanding s. 778.13, whenever ^{government accountability} any action or proposed action by the elections board under s. 5.05 (1) (c) is settled as a result of agreement between the parties without approval of the court, the moneys accruing to the state on account of such settlement shall be paid to the board and deposited with the secretary of administration. Whenever any proposed action by a county board of election commissioners under s. 7.21 (2m) (a) is settled as a result of agreement between the parties, the moneys accruing to the county on account of such settlement shall be paid to the board of election commissioners and deposited with the county treasurer in the same manner as provided for forfeitures under s. 778.13. ✓

~~History: 1977 c. 427; 1979 c. 32 ss. 56, 92 (8); Stats. 1979 s. 778.135; 1999 a. 182; 2003 a. 33.~~



47-1212 FWS

Section #. 778.136 of the statutes is amended to read:

778.136 Ethics and lobbying forfeitures; how recovered. Notwithstanding s. 778.13, whenever any moneys are received by the ~~ethics~~ ^{government accountability} board or attorney general in settlement of a civil action or other civil matter for violation of the lobbying law or code of ethics for state public officials and employees under s. 19.545, the moneys shall accrue to the state and be deposited with the secretary of administration.

~~History: 1981 c. 20; 1989 a. 338; 2003 a. 33.~~

(end ins)

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NONSEVERABILITY: CS

1 (1) Notwithstanding section 990.001 (11) of the statutes, if a court finds that
2 the amendment of section 11.06 (7m) (a) (by SECTION 30) or 11.50 (1) (a) 1. (by SECTION
3 33) or (am) 2. of the statutes by this act, or any part of the laws specified in 2001
4 Wisconsin Act 109, section 9115 (2y) (b) is unconstitutional, the amendment of
5 sections 11.06 (7m) (a) (by SECTION 30) and 11.50 (1) (a) 1. (by SECTION 33) and (am)
6 2. of the statutes by this act is void.

SECTION 38. Initial applicability.

8 (1) This act first applies with respect to voting at the 2006 September primary
9 election.

10 SECTION 39. Effective dates. This act takes effect on the day after publication,
11 except as follows:

12 (1) The treatment of section 6.87 (4) (by SECTION 18) of the statutes takes effect
13 on January 1, 2006.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

April 21, 2003

-1150/1
LRB0060/ldn

JTK:kmj:jf
6
Jid

Senator Ellis:

1. This draft is predicated upon the assumption that the bill resulting from its enactment will become law no later than November 1, 2003. If the bill becomes law after November 1, 2003, it may be inoperative. If it appears that the bill will become law after November 1, 2003, please contact me and I will prepare an amendment to take account of the revised effective date.

2. For this draft, I have included appropriations but have specified "-0-" for expenditure in fiscal years 2003-04 and 2004-05. When you know the dollar amounts that you need to include in the proposal, contact me and I will either redraft the proposal or draft an amendment, whichever is appropriate.

3. The draft does not specify whether the enforcement division of the Government Accountability Board must bring an enforcement action upon direction of the board if the division does not want to bring that action. You may wish to clarify that point.

4. Proposed SECTION 129 (4), which places the responsibility in the director of the Legislative Council Staff to serve as interim executive director of the Government Accountability Board and to exercise certain authority in that capacity, may raise an issue under the separation-of-powers provisions of the Wisconsin Constitution [art. VI and art. VII, sec. 2] because the draft places administrative and enforcement functions within the legislative branch. While a provision of this type would not be permitted under the constitutions of some states, the Wisconsin Supreme Court has indicated that in this state the separation-of-powers principle will not be applied inflexibly. The test is whether there is an actual and substantial encroachment, rather than a theoretical bridging of the division of power. *J.F. Ahern v. Bldg. Comm.*, 114 Wis.2d 69, 104 (Ct. App., 1983), as quoted in *Martinez v. DILHR*, 165 Wis.2d. 687, 697 (1992). Additionally, in this case, the proposed Government Accountability Board will exercise some authority over all three branches of government. Under the separation of powers doctrine, a statute may not materially impair or practically defeat the proper function of a particular branch of government and the exercise of powers delegated it. *In Matter of E.B.*, 111 Wis. 2d 175, 184 (1983). With respect to a power that is shared between branches, a statute may not unduly burden or substantially interfere with another branch's essential role and powers. *State v. Unnamed Defendant*, 150 Wis. 2d 352, 360 (1989). Whether proposed SECTION 129 (4) will be viewed as a substantial

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For this purpose, you
may wish to request the fiscal estimate prior to introduction or request the
Legislative
Fiscal
Bureau
to provide
updated
dollar
figures.

[x]
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LPS-
use hard number
here

encroachment by one branch of government upon the proper function of another branch cannot be determined with certainty.

Jeffery T. Kuesel
Managing Attorney
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1150/1dn
JTK:jd:rs

December 30, 2004

Senator Ellis:

1. This draft is predicated upon the assumption that the bill resulting from its enactment will become law no later than November 1, 2005. If the bill becomes law after November 1, 2005, **it may be inoperative**. If it appears that the bill will become law after November 1, 2005, please contact me and I will prepare an amendment to take account of the revised effective date.
2. For this draft, I have included appropriations but have specified “-0-” for expenditure in fiscal years 2005-06 and 2006-07. When you know the dollar amounts that you need to include in the proposal, contact me and I will either redraft the proposal or draft an amendment, whichever is appropriate. For this purpose, you may wish to request the fiscal estimate prior to introduction or request the Legislative Fiscal Bureau to provide updated dollar figures.
3. The draft does not specify whether the enforcement division of the Government Accountability Board must bring an enforcement action upon direction of the board if the division does not want to bring that action. You may wish to clarify that point.
4. Proposed SECTION 141 (4), which places the responsibility in the director of the Legislative Council Staff to serve as interim executive director of the Government Accountability Board and to exercise certain authority in that capacity, may raise an issue under the separation-of-powers provisions of the Wisconsin Constitution [art. VI and art. VII, sec. 2] because the draft places administrative and enforcement functions within the legislative branch. While a provision of this type would not be permitted under the constitutions of some states, the Wisconsin Supreme Court has indicated that in this state the separation-of-powers principle will not be applied inflexibly. The test is whether there is an actual and substantial encroachment, rather than a theoretical bridging of the division of power. *J.F. Ahern v. Bldg. Comm.*, 114 Wis.2d 69, 104 (Ct. App., 1983), as quoted in *Martinez v. DILHR*, 165 Wis.2d. 687, 697 (1992). Additionally, in this case, the proposed Government Accountability Board will exercise some authority over all three branches of government. Under the separation of powers doctrine, a statute may not materially impair or practically defeat the proper function of a particular branch of government and the exercise of powers delegated it. *In Matter of E.B.*, 111 Wis. 2d 175, 184 (1983). With respect to a power that is shared between branches, a statute may not unduly burden or substantially interfere with

another branch's essential role and powers. *State v. Unnamed Defendant*, 150 Wis. 2d 352, 360 (1989). Whether proposed SECTION 141 (4) will be viewed as a substantial encroachment by one branch of government upon the proper function of another branch cannot be determined with certainty.

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